

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

United States of America

v.

Case No. 19-cr-47-01-SM

Terray Morrison

ORDER

After due consideration of the objection filed, I herewith approve and adopt the thorough and thoughtful Report and Recommendation of Magistrate Judge Andrea K. Johnstone dated December 30, 2020, for the reasons given therein.

To the extent the objection to the report also travels as a motion to revoke the magistrate judge's order to the extent it constitutes an order denying bail, in that it addresses issues raised in a separate Emergency Motion for Release and Self-Surrender (doc. no. 294), the court, having independently reviewed the matter and reconsidering the relief requested relief de novo, finds that release pending sentencing in this case is not warranted essentially for the reasons given by the magistrate judge. Defendant offers little new in support of his motion for release, and, as noted previously, his record (criminal activity while on supervision particularly), the

seriousness of his offense, the adjudication of guilt based on his provident guilty plea, the prospect of a sentence of at least 10 years imprisonment and risk of flight arising from that prospect, the danger he poses to the community, the unsuitability of his proposed release plan (the need to quarantine, to isolate from other residents particularly, given his exposure to Covid-19), all militate against his release pending sentencing.

A word about his Emergency Motion for Release and Self Surrender under 18 U.S.C. §§ 3142(f) and §§ 3142(i). The motion notes that the government does not object to a hearing "but is seeking additional information to determine if it will object to the other relief requested herein." There does not appear to be any additional information in the record, but neither is there any information suggesting that the magistrate judge's assessment of relevant facts is in error in any material respect. The defendant has not met his burden of proof with respect to release pending sentencing.

Given that defendant has been exposed to the Covid-19 virus, has been isolated at the House of Corrections, has been monitored by qualified nursing staff 24 hours per day, has a contract physician readily available when medically necessary at the call of nursing staff, and can, if appropriate, be readily moved to an in-hospital setting to receive appropriate treatment

as necessary, all combine to undermine and claim that a substantial change in circumstances or extraordinary circumstances warranting release pending sentencing have been shown. Nor does defendant's chronic asthma, currently monitored and treated by House of Corrections medical staff, alter the circumstances significantly. As the magistrate judge noted, there is little reason to think that defendant would benefit from better or more attentive medical monitoring or treatment if released pending sentencing, and, if released, he may well pose a further risk of actually spreading the virus.

Conclusion

The Report and Recommendation is approved and adopted for the reasons given. To the extent the Report and Recommendation represents a separate decision denying bail pending sentencing it is affirmed after de novo review. The Emergency Motion for Release and Self Surrender (doc. no. 294) is denied for the reasons given.

So Ordered.



Steven J. McAuliffe
United States District Judge

Date: February 1, 2021

cc: Counsel of Record